

Remarks

Applicants respectfully request that the present remarks be entered and made of record in the instant application.

I. Claims

Upon entry of the foregoing amendment, claims 55 and 76-98 are pending in the application, with claims 55, 76 and 87 being the independent claims. Claim 61 is sought to be canceled. Claims 77 and 88 are sought to be amended. Claim 98 is sought to be added. No new matter is added by way of these amendments. It is respectfully requested that the amendments be considered and entered.

II. Claim Objections

“Claim 61 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.” (Office Action, page 2.) Applicants believe this rejection is based on claim 61 being dependent on a claim which is not preceding claim 61. (Office Action, page 2.) Therefore, Applicants have canceled claim 61 and added claim 98. Claim 98 is the same as previous claim 61. Applicants believe this amendment renders the objection to claim 61 moot. Thus, Applicants respectfully request that the Examiner withdraw the objection.

III. Written Description

“Claims 77 and 88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.” (Office Action, page 3.) Applicants respectfully disagree.

Applicants believe the claims were rejected because they refer to “derivatives” of N-acetyl-L-cysteine. (Office Action, page 3.) Solely to advance prosecution, and not in acquiescence to the Examiner’s rejection, Applicants have deleted the recitation of “derivatives” from claims 77 and 88.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 112, first paragraph.

IV. Double Patenting

A. Claim 55: Statutory Double Patenting

“Claim 55 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6,733,746.” (Office Action, page 4.) Applicants respectfully disagree.

Statutory type double patenting under 35 U.S.C. § 101 requires that two claims be of identical subject matter. (Manual of Patent Examining Procedure (MPEP), 8th Ed. (August 2006) § 804(II)(A).)

Claim 1 of U.S. Patent No. 6,733,746 (the ‘746 patent) recites the ingredients L-cysteine, L-glutamine and L-hydroxyproline, whereas claim 55 of the ‘619 application does not recite these ingredients. Therefore, the subject matter of these two claims is not identical.

B. Claim 79: Statutory Double Patenting

“Claim 79 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 27 and 33 of prior U.S. Patent No. 6,733,746.” (Office Action, page 4.) Applicants respectfully disagree.

The subject matter of claim 1 of the ‘746 patent relates to a cell culture medium, whereas the subject matter of claim 79 of the ‘619 application relates to a method. Therefore, the subject matter of claim 1 of the ‘746 patent is not identical to subject matter of claim 79 of the ‘619 application.

The subject matter of claim 27 of the ‘746 patent relates to a method that utilizes the cell culture medium of claim 1 of the ‘746 patent, which as noted above, recites the ingredients L-cysteine, L-glutamine and L-hydroxyproline. Claim 33 of the ‘746 patent depends from claim 27, therefore incorporating the subject matter of claim 27. In contrast, claim 79 of the ‘619 application does not recite these three ingredients. Therefore, the subject matter of neither claim 27 nor claim 33 of the ‘746 patent is identical to the subject matter of claim 79 of the ‘619 application.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the statutory double patenting rejections under 35 U.S.C. 101.

C. Claims 61, 76-78 and 80-97: Nonstatutory Obviousness-Type Double Patenting

“Claims 61, 76-78 and 80-97 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6, 33-38 and 46-48 of U.S. Patent No. 6,733,746.” (Office Action, page 5.) Applicants respectfully disagree. Nevertheless, solely to

expedite allowance of the present application, Applicants submit herewith a terminal disclaimer over U.S. Patent No. 6,733,746. Thus, the rejection for obviousness-type double patenting has been fully accommodated and should be withdrawn.

Conclusion

It is not believed that extensions of time are required beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, The United States Patent and Trademark Office is hereby authorized to charge any fee deficiency required to prevent abandonment of the current application or credit any overpayment to Deposit Account 50-3994.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete Reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

/Douglas A. Golightly/
Douglas A. Golightly
Agent for Applicants
Registration No. 51,244
240-379-4686

Date: April 13, 2007